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TAGS: [PHUM](#) [PGOV](#) [KJUS](#) [VE](#)  
SUBJECT: CHAVEZ VETOES PENAL CODE REFORM

REF: CARACAS 00168

Classified By: POLITICAL COUNSELOR ABELARDO A. ARIAS FOR REASONS 1.4 (d)  
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Summary  
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[¶11.](#) (U) On February 3 President Hugo Chavez vetoed amendments to Venezuela's Penal Code approved by the National Assembly on January 6, according to press reports and public statements by various legislators. In vetoing the legislation, the President returns the bill to the Assembly with observations for correction. According to press reports, the observations concern the constitutionality of measures to eliminate bail and alternative sentencing options for several crimes, and the vague drafting of other articles.  
End Summary.

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Veto Reported  
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[¶12.](#) (U) President Hugo Chavez vetoed amendments to Venezuela's Penal Code on February 3 that the National Assembly passed on January 6 (reftel), according to Venezuelan press reports. The president has veto power under article 214 of the constitution, which requires him to return the law to the National Assembly with specific well reasoned objections within ten days of passage of legislation. The Assembly can then accept or reject the observations of the executive. The document containing the veto was not distributed to deputies until February 10. The principal objection, per news accounts, was the elimination of bail and parole provisions for several felonies, including theft and robbery, and the vagueness with which other articles were drafted.

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Prison Crisis  
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[¶13.](#) (U) An anonymous source at the Solicitor General's office told daily newspaper El Universal February 8 that the veto was related to the prison crisis in the country. At the end of 2004 a nationwide hunger strike broke out in Venezuela's prisons, protesting the extremely poor conditions, overcrowding, violence and lack of access to alternatives to prison for many prisoners until they have completed half their sentence. The amendments would have eliminated procedural "benefits" for several categories of common crime, including theft, rape, murder, and kidnapping, as well as for conspiracy against government, sabotage, and aiding subversion. These benefits include the right to be released on bail pending trial, the right to alternatives to prison if convicted, and parole. Movimiento al Socialismo (MAS) Deputy Nicolas Sosa noted February 9 that the amendments would make it harder to release prisoners just when the executive was negotiating with prisoners on how to relieve overcrowding in prisons and ease access to prison alternatives.

[¶14.](#) (U) Opponents of President Chavez had argued in the National Assembly during debates on the amendments that the benefits were in the constitution, as rights, and that the Organic Criminal Procedure Law could not be modified by a criminal code reform. According to El Universal's source in the Solicitor General's office, that the suppression of the benefits is unconstitutional is one of the main points of the executive veto.

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Lack of Communication?  
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[¶15.](#) (C) Movimiento Quinta Republica (MVR) Deputy Luis Tascon told reporters February 9 that the president's objection to the amendments was based on constitutional grounds. Tascon blamed lack of communication among the different governmental powers, specifically the Assembly and the Supreme Court and

Solicitor General's office for the President's veto. MVR Deputy Calixto Ortega, on the other hand, said the veto illustrated the independence of the legislative branch vis-a-vis the executive branch. "This serves to show that it is false that the legislature only does what Miraflores wants," Ortega said. On December 15 Tascon's assistant Fernando Avila told PolOff that Tascon and Ortega were among the MVR Deputies who had strongly objected to the amendments, pushed by MVR Deputy Iris Varela and the pro-Chavez Assembly leadership. Varela told reporters February 10 that all the executive's objections would be accepted, and that the new version of the bill was almost ready. She played down the importance of the veto and the seriousness of the objections.

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Opposition Reaction

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**16.** (U) Opposition legislators welcomed the veto. Movement to Socialism (MAS) Secretary General and Deputy Leopoldo Puchi told reporters it presented an opportunity to correct errors. Primero Justicia (PJ) Deputy Gerardo Blyde pointed out the opposition had made the same critique of the bill the executive was now making. He said PJ would now push for a total reform of the penal code, rather than modifying the amendments. Blyde speculated that concern within the executive over the international reaction to the amendments may have prompted the veto.

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Comment

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**17.** (C) The Executive's objections to the amendments have not yet been made public, so it is not clear which provisions are in question. Most of the information available, however, supports the version that the objections relate to the potential aggravation of the prison situation rather than to concern about violation or abuse of human rights. For now, nonetheless, the veto puts on hold legal provisions that would have serious human rights implications.

Brownfield